

REMARKS

Claims 5-8 and 10 are pending in the Application. Claims 5-8 and 10 stand rejected.

Claims 5 and 8 are independent claims.

Claims 5 and 8 stand rejected under 35 U.S.C. '103(a) as allegedly being obvious over GB patent application publication Oh *et al.* (G.B. 2,314,077) ("GB Oh"), for which the U.S. patent 6,519,974 by Oh will be referred in the present remark. Claim 5 as previously amended recites, *inter alia*, "a gas supplier for supplying gas into the air holes via the preform cover..." Claim 8 recites a similar storage means.

As noted in the specification, the gas supplier or storage means supplies gas into the open end of the substantially vertical air holes of the preform, via the preform cover (Figure 3; see also Page 8, line 10-13; see also Figure 3). Applicant respectfully submits that claims 5 and 8 reciting such a gas supplier or storage means are not obvious over Oh.

The United States Court of Appeals for the Federal Circuit held that to establish *prima facie* case of obviousness, the prior art references, alone or in combination, **must teach or suggest all the claim features** (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)), **including functional features** (*In re Schreiber*, 128 F.3d 1473, 1478, 44 USPQ.2d 1429 (Fed. Cir. 1997) (holding that the patent applicant is free to recite features of an apparatus claim in functional language as long as such features are not inherent to the prior art)).

Oh, as read by applicant, discloses an optical fiber fabricating apparatus comprising a gas supplier 48 and an adjoiner 47 that is placed on top of the overcladding tube 44 and the optical fiber preform 46 (Figure 5). According to Oh, the adjoiner 47 comprises an annular channel 56 and suction tubes C, where one end of each tube C is connected to the annular channel 56 and the other end is placed in the space between the overcladding tube 44 and the preform 46 (id.).

In operation, the gas supplier 48 forces the gas into the annular channel of 56 of the adjoiner 47, where the flow of gas through channel 56 partially evacuates the space between the optical fiber preform 46 and the overcladding layer 44 (column 7, line 20-27).

Therefore, the apparatus shown in Oh contains a gas supplier that evacuates the optical fiber and removes air or gas from the optical fiber. Oh does not show “a gas supplier for supplying gas into the air holes via the preform cover...,” as recited in claims 5 and 8.

Oh, therefore, does not teach all features of claims 5 and 8, and Oh does not establish the *prima facie* case that claims 5 and 8 are obviousness over Oh. Applicant respectfully requests withdrawal of the rejections on claims 5 and 8.

Other claims in this application are each dependent on the independent claims 5 and 8 and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration of the patentability of each on its own merits is respectfully requested.

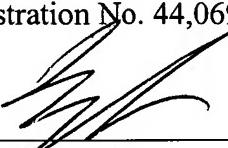
Amendment
Serial No. 10/619,707

If any issues remain which may be best resolved through a telephone communication, the Examiner is requested to kindly telephone the undersigned telephone number listed below.



Respectfully submitted,

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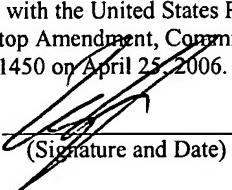
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